

SENT TO GOVERNOR

(March 1, 1995)

S.C.R. 24**S.C.R. 64****THIRTIETH DAY**

(Thursday, March 2, 1995)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Harris, Sims.

A quorum was announced present.

The Reverend Dr. John K. Graham, Assistant to the Rector, St. Matthew's Episcopal Church, Austin, offered the invocation as follows:

Almighty and everlasting God, on this the day we celebrate the independence of the State of Texas, we thank You for having blessed this state by placing men and women in government who have caring and concerned hearts. May they see with clarity the needs of the people they represent and have the wisdom and courage to make the difficult decisions they must make. Give them discernment in all they do—both public and private—so they may walk uprightly in all their affairs. Remove all division, strife, confusion, doubt, and fear from the midst of this chamber. May nothing hinder or divert these men and women from their noble task. All of this I ask in Your most holy and precious name to whom all honor and glory is due. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Truan, Senator Harris was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Sims was granted leave of absence for today on account of illness.

CO-AUTHORS OF SENATE JOINT RESOLUTION 33

On motion of Senator Brown and by unanimous consent, Senators Haywood, Leedom, and Shapiro will be shown as Co-authors of **S.J.R. 33**.

CO-AUTHOR OF SENATE BILL 10

On motion of Senator Zaffirini and by unanimous consent, Senator Galloway will be shown as Co-author of **S.B. 10**.

CO-AUTHOR OF SENATE BILL 336

On motion of Senator Rosson and by unanimous consent, Senator Lucio will be shown as Co-author of **S.B. 336**.

CO-AUTHOR OF SENATE BILL 542

On motion of Senator Rosson and by unanimous consent, Senator Truan will be shown as Co-author of **S.B. 542**.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate:

S.C.R. 35

S.C.R. 66

S.C.R. 68

GUESTS PRESENTED

Senator Ratliff was recognized and introduced to the Senate the Cooper High School "Bulldogettes" girls basketball team. They were accompanied by their coach, Sandra Stephens, and superintendent of schools, Fred Wilkerson.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Zaffirini, joined by Senator Barrientos, was recognized and introduced to the Senate a group of 43 kindergarten students from Sims Elementary School of Austin. Accompanying these students were their teachers, Valerie Borchers, niece of Senator Zaffirini, Carla Davis, and Mia Polk; three parents, Erica Black, Susie Clark, and Cheryl Green; and Erica Borchers, also a niece of Senator Zaffirini.

The Senate welcomed its guests.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

S.J.R. 1 by Ellis

State Affairs

Proposing a constitutional amendment abolishing the office of state treasurer.

Economic Development

State Affairs

Natural Resources

State Affairs

Criminal Justice

Economic Development

State Affairs

Education

Natural Resources

Economic Development

Economic Development

Education

- S.B. 851** by Bivins Finance
Relating to a tax exemption for hydrocarbon production from certain inactive oil and gas leases returned to production.
- S.B. 852** by Shapiro Criminal Justice
Relating to work programs and training for children committed to the Texas Youth Commission, franchise tax credits for participating industries, and optional ad valorem tax abatement from cities and counties for businesses providing training and employment for such children.
- S.B. 853** by Shapiro Criminal Justice
Relating to the penalty for an offense involving the operation of a motor vehicle while intoxicated and while a child is present.
- S.B. 854** by Shapiro Criminal Justice
Relating to the testimony in a criminal proceeding of a child who is a victim.
- S.B. 855** by Patterson Intergovernmental Relations
Relating to providing a deferred retirement option to members of firemen's relief and retirement funds in certain cities.
- S.B. 856** by Haywood Education
Relating to the issuance of bonds by Midwestern State University.
- S.B. 857** by Haywood State Affairs
Relating to the establishment of credit in the Employees Retirement System of Texas for certain military service.
- S.B. 858** by Wentworth Finance
Relating to the display of a sales tax permit or permit number.
- S.B. 859** by Wentworth Economic Development
Relating to mandatory repayment of certain amounts overpaid as unemployment compensation benefits.
- S.B. 860** by Ellis Intergovernmental Relations
Relating to prohibiting the provision of tobacco products in county jails and other county correctional facilities; providing a penalty.
- S.B. 861** by Ellis Intergovernmental Relations
Relating to leaves of absence for certain deputy sheriffs.
- S.B. 862** by Ellis State Affairs
Relating to authorizing the state and political subdivisions of the state to enter into certain agreements regarding employment conditions.
- S.B. 863** by Barrientos Intergovernmental Relations
Relating to certain conditions of employment for and investigations of fire fighters and police officers in certain municipalities.
- S.B. 864** by Barrientos Intergovernmental Relations
Relating to participation in and benefits and administration of retirement systems for police officers in certain municipalities.

S.B. 865 by West Health and Human Services
Relating to nurse aides in certain nursing facilities funded through the state Medicaid program.

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read first time and referred to the committee indicated:

H.C.R. 24 to Committee on Natural Resources.

(Senator Shapiro in Chair)

SENATE RESOLUTION 344

Senator Nelson offered the following resolution:

S.R. 344, Expressing deepest gratitude to John Graves of Glen Rose and acknowledging his magnificent achievements in preserving the greatness of the Lone Star State in his writings.

NELSON
SIBLEY

The resolution was read.

On motion of Senator Sibley and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Nelson, the resolution was adopted by a viva voce vote.

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
March 2, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 192, Relating to the administration and responsibilities of The University of Texas M. D. Anderson Cancer Center. (As substituted)

H.C.R. 62, Designating March 8 and 9, 1995, as Marshall Days.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

CAPITOL PHYSICIAN

The President recognized Senator Patterson, who presented Dr. Warren Longmire of Hitchcock as the "Doctor for the Day." Dr. Longmire was accompanied by Walter Guth, a third-year medical student from Baylor.

Dr. Longmire and Mr. Guth, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, were made welcome by the Senate.

SENATE RESOLUTION 345

Senator Truan offered the following resolution:

WHEREAS, "Texas, our Texas! All hail the mighty State! Texas, our Texas! So wonderful, so great!" are the words in our state song that express so eloquently the immense pride Texans have for their native land; and

WHEREAS, On a clear, cold morning, March 2, 1836, a convention of 59 delegates from communities throughout Texas met at Washington-on-the-Brazos to adopt a Declaration of Independence from Mexico; the document contained a statement of the nature of government, a list of grievances against the government of Mexico, and a final declaration of independence that was approved by unanimous vote; and

WHEREAS, These bold visionaries stated that the people of Texas now constituted a free, sovereign, and independent republic and that political connection with the Mexican nation was ended forever; Tennessean George Childress authored the historic document that bore similarity to the Declaration of the United States, and the signing of the document began the following day; and

WHEREAS, The convention also drafted a constitution for the new republic, organized an ad interim government, and named Sam Houston as commander-in-chief of the military forces of Texas; and

WHEREAS, The Texans were prompted to such daring action when it was learned that Santa Anna, the Mexican president, was marching toward Texas with a large army; in early February, 1836, his army crossed the Rio Grande and by February 23 was in San Antonio where the Texans remaining in that city had moved to the old Alamo mission for safety; and

WHEREAS, Texas was a territory of Mexico in the early 19th century when Stephen F. Austin brought some 300 families to settle the land that had been granted to him by the Mexican government in 1823; by the fall of 1835 conflicts between the colonists and Mexico had boiled over into a revolution when settlers rebelled against Mexican restrictions; and

WHEREAS, Every March 2nd, Texans across the Lone Star State and around the world gather to commemorate this glorious day and to pay homage to the men who defiantly proclaimed their freedom and charted a course that eventually led to statehood; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby celebrate March 2, 1995, as Texas Independence Day and join Texans everywhere in the joyous observance of this momentous date in the history of our state.

The resolution was read.

On motion of Senator Cain and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan, the resolution was adopted by a viva voce vote.

CONCLUSION OF MORNING CALL

The President at 11:07 a.m. announced the conclusion of morning call.

SENATE BILL 361 ON SECOND READING

Senator Armbrister moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 361** be taken up for consideration at this time:

S.B. 361, Relating to the removal of the Guadalupe-Blanco River Authority from the application of the Texas Sunset Act.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 361 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 361** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 490 ON SECOND READING

Senator Bivins moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **C.S.S.B. 490** be taken up for consideration at this time:

C.S.S.B. 490, Relating to premium discounts by certain insurance companies for persons installing home security devices.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Armbrister.

Absent-excused: Harris, Sims.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 490** by striking Subdivision (2), Section 2, of Article 5.33A, Insurance Code, as amended by SECTION 2 of the bill (committee printing page 1, lines 27-31), and substituting the following:

(2) the person possesses a certificate of installation issued by the installer of the electronic burglar alarm stating that at the time of installation the system complied with the requirements of Section 6(a)(2) of this article and the person furnishes the certificate to the insurer.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the adoption of the amendment.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 490 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 490 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Armbrister.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the final passage of the bill.

SENATE BILL 577 ON SECOND READING

Senator Henderson moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that S.B. 577 be taken up for consideration at this time:

S.B. 577, Relating to pleas entered by a minor in justice or municipal court.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time.

Senator Henderson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 577** as follows:

(1) In SECTION 1, Art. 45.331, Subsection (a), change the number "18" to "17".

(2) In SECTION 1, add a new subsection (b) to Art. 45.331 to read as follows:

"(b) The court shall cause one or both parents or guardians to be summoned to appear in court and shall require one or both of them to be present during all proceedings in the case. However, the court may waive the requirement of the presence of parents or guardians in any case in which, after diligent effort, the court is unable to locate them or to compel their presence."

(3) In SECTION 1, renumber existing subsection "(b)" of Art. 45.331 to be subsection "(c)".

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 577 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 577** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

MEMORIAL RESOLUTION

S.R. 342 - By Truan: In memory of J. Patrick Erikson of Corpus Christi.

CONGRATULATORY RESOLUTIONS

S.C.R. 76 - By Ratliff: Recognizing March 8, 1995, as Pittsburg Day at the State Capitol.

S.C.R. 77 - By Ratliff: Congratulating Dr. James M. Brunette of Paris, Texas, on his selection as the "I Love Paris" honoree.

S.R. 343 - By Henderson: Congratulating Travis Winfield Sampley on achieving the rank of Eagle Scout.

S.R. 346 - By Brown: Recognizing the Alamo Defenders Descendants Association as it holds its first annual assembly in San Antonio.

S.R. 347 - By Ellis: Recognizing Heavyweight Champion of the World George Edward Foreman of Houston for his continuing personal leadership as an outstanding role model.

S.R. 348 - By Bivins: Recognizing Gaines County on the occasion of its 90th anniversary celebration.

H.C.R. 103 - (Zaffirini): Recognizing the observance of Women's History Month.

ADJOURNMENT

On motion of Senator Truan, the Senate at 11:17 a.m. adjourned, in memory of John Travis Potter, Sr., and former president and governor of Texas, Sam Houston, until 11:00 a.m. Monday, March 6, 1995.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

March 1, 1995

EDUCATION — **S.B. 399**

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY —
S.B. 627 (Amended), **C.S.S.B. 336**, **C.S.S.B. 542**

March 2, 1995

EDUCATION — **S.J.R. 35**

NATURAL RESOURCES — **S.B. 700** (Amended), **C.S.S.B. 699**

FINANCE — **S.J.R. 32**, **C.S.S.B. 403**, **S.B. 255**

SENT TO SECRETARY OF STATE

(February 27, 1995)

H.C.R. 100

**In Memory
of**

John Travis Potter, Sr.

Senator Truan offered the following resolution:

(House Concurrent Resolution 56)

WHEREAS, The passing of John Travis Potter, Sr., on September 6, 1993, at the age of 69, has brought a great loss to the many friends and relatives of this esteemed gentleman; and

WHEREAS, A native Texan, he was born September 20, 1923, in Gorman and, as a young man, joined the Army Air Corps in September 1941; during World War II, Mr. Potter served gallantly in the 97th Bomber Group and flew 53 missions as the engineer gunner on a B-17 in the Tunisia, Sicily, Naples, and Foggia campaigns; and

WHEREAS, This highly decorated veteran was honored for his exceptional service to his country as the recipient of the Distinguished Flying Cross, the Purple Heart, the Air Medal with 10 Oak Leaf Clusters, the Good Conduct Medal, the American Defense Service Medal, and three Bronze Stars for his participation in the European-African-Middle Eastern campaign; and

WHEREAS, While stationed in Atlantic City, Mr. Potter met the woman who would become his wife of 49 years, the former Marjorie Eleanor English, and the couple were united in marriage in a ceremony that was proclaimed to be the first all-GI wedding; and

WHEREAS, After leaving military service, he began an outstanding career in Texas state government that would span nearly four decades; initially employed with the state auditor's office, Mr. Potter was appointed by Governor Allan Shivers as the finance director for the first Commission on Higher Education and also served as the governor's assistant budget director; and

WHEREAS, He went on to distinguish himself as the assistant director of the Texas Legislative Council from 1957 until his retirement in 1978, during which time he organized numerous gubernatorial inaugurations and two national legislative conferences, helped to rewrite the rules of the House of Representatives of the 65th Legislature, and was honored at various times with citations for his meritorious service; and

WHEREAS, He maintained a lifelong affiliation with the military, having been elected commander of San Benito

VFW Post 2410 and later serving as a member of Harlingen VFW Post 9874 following a move to this South Texas community in 1983; in recent years, Mr. Potter also gave generously of his time and talents to serve on the board of directors of the University Preparatory School; and

WHEREAS, Throughout his life, John Potter exemplified the highest standards of excellence, dedication, and leadership; though his presence is gone from us now, his unique spirit will surely remain in the hearts of all those who were privileged to know him; now, therefore, be it

RESOLVED, That the 74th Legislature of the State of Texas hereby pay tribute to the life of John Travis Potter, Sr., and extend sincere sympathy to the members of his family: to his wife, Marjorie E. Potter of Harlingen; to his sons and daughters-in-law, Travis and Sharon Potter, Jerry and Cathy Potter, and Todd and Christie Potter; to his daughter, Karen Potter; to his brothers, R. W. and Bill Potter; to his mother-in-law, Ruth A. Mickle; to his grandchildren, Clayton L., Sean, Asa James, Kayla Brianna, and Kacee Potter; and to his great-grandson, Leslie K. Potter; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the members of his family and that when the Texas House of Representatives and Senate adjourn this day, they do so in memory of John Travis Potter, Sr.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

Senator Truan was recognized and introduced to the Senate the wife of Mr. Potter, Marjorie Eleanor English Potter.

The Senate welcomed Mrs. Potter and expressed its sympathy.